

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2151 OF 2007

IN

FIRST APPEAL NO. 152 OF 2005

Smt. Krishnabai Sadhu Kudal. ...Applicant.

Vs.

Executive Engineer,
M.S.E.B., Vishrambag,
Sangli & Ors.

...Respondents.

Mr.Uday P. Warunjikar for the applicant.

Ms. A.R.S.Baxi for the respondents.

CORAM : ANOOP V. MOHTA, J.

DATED : 6th August, 2007

P.C.

1. Application for withdrawal of the money by the applicant who is a widow of the person who died because of alleged action of respondents. The suit is decreed on 27/07/2004 against defendant Nos. 1 to 4 jointly and severally for the amount of Rs.2,36,000/- along with interest at the rate of 6% p.a.. While admitting the first appeal, the court has directed the appellant to deposit Rs.1,50,000/-. Therefore, this application is for withdrawal of money.

2. Considering the averments made and in view of the fact that there is no dispute about the death caused in the matter and the applicant- original plaintiff is

the widow of the said deceased. Therefore, the averments made in this application are sufficient to consider the case of grant of withdrawal of the said money. The learned counsel appearing for the applicant further submitted that this is a first appeal there is a possibility of reconsidering the evidence already laid by the parties.

3. I am of the view that, in the facts and circumstances of the case, as referred above and as referred in the application, the applicant-original plaintiff being widow is entitled to withdraw the said amount. However, this is subject to the following condition:-

- a) Applicant-plaintiff is at liberty to withdraw Rs.50,000/- without any security.
- b) For balance amount of Rs.1,00,000/-, the applicant-plaintiff shall submit an appropriate security before the trial court before withdrawing the said amount of Rs.1,00,000/-.

4. The Civil application is, therefore, disposed of.

[ANOOP V. MOHTA, J.]